

## 7A Am. Jur. 2d Automobiles § 107

American Jurisprudence, Second Edition | November 2021 Update

### Automobiles and Highway Traffic

Barbara J. Van Arsdale, J.D.; Keith A. Braswell, J.D., of the staff of the National Legal Research Group, Inc.; George Blum, J.D.; John Bourdeau, J.D.; Paul M. Coltoff, J.D.; John A. Gebauer, J.D.; Noah J. Gordon, J.D.; Mary Babb Morris, J.D., of the staff of the National Legal Research Group, Inc.; Karl Oakes, J.D.; and Eric C. Surette, J.D.

### III. Licensing, Taxation, and Registration

#### B. Drivers or Operators

##### 1. In General

## § 107. Carrying and display of license—Lawfulness of police demand for driver's license

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, [Automobiles](#)  135, 136

#### A.L.R. Library

[Search and seizure: lawfulness of demand for driver's license, vehicle registration, or proof of insurance pursuant to police stop to assist motorist, 19 A.L.R.5th 884](#)

A police officer's action in stopping an automobile and detaining the driver to check the driver's license and the registration of the automobile constitutes an unreasonable seizure under the Fourth and 14th Amendments, except in those situations in which there is at least an articulable and reasonable suspicion that a motorist is unlicensed, that an automobile is not registered, or that either the vehicle or an occupant is otherwise subject to seizure for violation of law.<sup>1</sup> This rule against random stops and detentions, however, does not preclude a state from developing methods for spot checks that involve less intrusion or that do not involve the unconstrained exercise of discretion, such as, for example, the questioning of all oncoming traffic at roadblock-type stops.<sup>2</sup> Such a practice does not constitute an unlawful arrest or restraint or an illegal search contrary to the United States Constitution.<sup>3</sup> However, some courts have held that the right to demand and inspect a driver's license is not an arbitrary right and requires some initial cause.<sup>4</sup>

Although there is authority to the contrary,<sup>5</sup> it has been held that a police officer who stops to assist a vehicle that is at a rest stop or apparently disabled and on the roadside may lawfully demand to see a driver's license.<sup>6</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

It is the information possessed by the officer at the time the officer stops a vehicle after learning that the registered owner has a revoked driver's license, not any information offered by the individual driver after the fact, that can negate the officer's inference that the owner is the driver of the vehicle, and thus preclude the existence of the reasonable suspicion of criminal activity required to justify the stop. *U.S. Const. Amend. 4. Kansas v. Glover*, 140 S. Ct. 1183 (2020).

Police had probable cause to believe that motorist, who was sitting in driver's seat of vehicle with engine running, was driving without a license, justifying arrest of motorist, who had initially been stopped for operating a vehicle without a license; police had reason to believe from prior encounter earlier that year that motorist might not have had a license, which motorist confirmed to be a fact, and when officer asked motorist what he was doing driving the vehicle because he did not have a license, motorist responded with, "I know," even though he indicated that he was "just chilling." *U.S. Const. Amend. 4; Md. Code Ann., Transp. § 26-202(a). Spell v. State*, 239 Md. App. 495, 197 A.3d 562 (2018).

## [END OF SUPPLEMENT]

© 2021 Thomson Reuters. 33-34B © 2021 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

### Footnotes

- 1 *Delaware v. Prouse*, 440 U.S. 648, 99 S. Ct. 1391, 59 L. Ed. 2d 660 (1979).
- 2 *Delaware v. Prouse*, 440 U.S. 648, 99 S. Ct. 1391, 59 L. Ed. 2d 660 (1979).
- 3 *State v. Fish*, 280 Minn. 163, 159 N.W.2d 786 (1968).  
If stopping motorists indiscriminately by police officers for the good-faith purpose of inspecting or asking for the exhibition of a driver's license were not permitted, the licensing law would break down and become a nullity, and the objective of promoting public safety from irresponsible automobile drivers would be seriously impeded; there would be but few occasions where an officer could otherwise learn that the law was being violated. *Com. v. Mitchell*, 355 S.W.2d 686 (Ky. 1962).  
As to what constitutes arrest, see *Am. Jur. 2d, Arrest* § 4.  
As to search of motor vehicles, generally, see *Am. Jur. 2d, Searches and Seizures* §§ 60 to 62.
- 4 *People v. McPherson*, 191 Colo. 81, 550 P.2d 311 (1976); *People v. James*, 44 Ill. App. 3d 300, 3 Ill. Dec. 88, 358 N.E.2d 88 (2d Dist. 1976).
- 5 *State v. DeArman*, 54 Wash. App. 621, 774 P.2d 1247 (Div. 1 1989).
- 6 *O'Donnell v. State*, 200 Ga. App. 829, 409 S.E.2d 579 (1991); *Com. v. Evans*, 436 Mass. 369, 764 N.E.2d 841 (2002); *Coffia v. State*, 2008 OK CR 24, 191 P.3d 594 (Okla. Crim. App. 2008); *State v. Ellenbecker*, 159 Wis. 2d 91, 464 N.W.2d 427 (Ct. App. 1990).

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.